

Section 7

Rules of the Office of the Secretary of State

(Supp. 04-1)

TITLE 1. RULES AND THE RULEMAKING PROCESS

CHAPTER 1. SECRETARY OF STATE RULES AND RULEMAKING

Editor's Note: This Chapter was significantly amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1), the first time in almost 10 years that these rules changed.

Chapter 1 consisting of Article 1, Sections R1-1-101 through R1-1-114; Article 2, Sections R1-1-201 through R1-1-212; Article 3, Sections R1-1-301 and R1-1-302; Article 4, Sections R1-1-401 through R1-1-414; Article 5, Sections R1-1-501 through R1-1-507; Article 6, Section R1-1-601; Article 7, Section R1-1-701; Article 8, Section R1-1-801; and Article 9, Section R1-1-901 adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994.

Chapter 1 consisting of Article 1, Sections R1-1-101 through R1-1-105; Article 2, Sections R1-1-201 through R1-1-208; Article 3, Sections R1-1-301 through R1-1-308; and Article 4, Sections R1-1-401 and R1-1-402 repealed effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994.

Chapter 1 consisting of Article 1, Sections R1-1-101 through R1-1-105; Article 2, Sections R1-1-201 through R1-1-208; Article 3, Sections R1-1-301 through R1-1-308; and Article 4, Sections R1-1-401 and R1-1-402 adopted effective January 1, 1987.

Former Chapter 1 consisting of Article 1, Sections R1-1-101 through R1-1-103 repealed effective January 1, 1987.

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ARTICLE 1. GENERAL PROVISIONS

R1-1-101. Definitions

The following definitions apply in this Chapter unless the context otherwise requires:

“Act” means A.R.S. §§ 41-1001 et seq., the Administrative Procedure Act.

“Agency” has the same meaning as in A.R.S. § 41-1001.

“Amendment” means a change to:

- A Section, including added or deleted language;
- A Part, by the addition or repeal of one or more Sections;
- An Article, by the addition or repeal of one or more Sections or Parts;
- A Subchapter, by the addition or repeal of one or more Articles, Parts, or Sections; or
- A Chapter, by the addition or repeal of one or more Subchapters, Articles, Parts, or Sections.

“Appendix” means supplementary material to a set of rules, written in prose format.

“Arizona Rulemaking Manual” means the guide prepared by and available from the Office for use by agencies when engaged in rulemaking.

“A.R.S.” means the Arizona Revised Statutes, the laws of the state of Arizona.

“Article” means a division of an agency’s rules under a Chapter containing a unified set of rules.

“Authority” means the statutory right or power to make, amend, or repeal rules.

“Authority note” means the information, not a part of the rule, appearing at the beginning of a Chapter, Subchapter, Article, or Part that cites the implementing and authorizing statutes for the rules appearing in that Chapter, Subchapter, Article, or Part.

“Chapter” means a division in the codification of the *Code* designating a state agency or, for a large agency, a major program.

“Close of record” means the last date on which an agency accepts comments, either written or oral, on a rulemaking.

“Code” means the *Arizona Administrative Code* published under A.R.S. § 41-1011.

“Codification” means the labeling and numbering scheme for the rules contained in the *Code*.

“Commercial purpose” has the same meaning as in A.R.S. § 39-121.03.

“Council” means the Governor’s Regulatory Review Council established under A.R.S. § 41-1051.

“Economic, Small Business, and Consumer Impact Statement” means the document that an agency makes to show that the agency has studied the rule’s economic impact on the regulated community as well as the impact on small businesses and consumers.

“Electronic media” or “electronic medium” means any type of material for data storage used by a computer.

“Emergency rule” has the same meaning as in A.R.S. § 41-1001.

“Exempt rule” means a rule that is exempt from the provisions of the Act. “Exempt rule” does not include a rule that is exempt only from Council review.

“Exhibit” means supplementary material used for items that do not fit the definition of an Appendix, Table, or Illustration.

“Heading” means the caption for any level of division within the *Code*.

“Historical note” means the note appearing after each Section of a Chapter, or after each separate Appendix, Exhibit, Illustration, or Table, in the *Code* that gives the history of that particular Section, Appendix, Exhibit, Illustration, or Table, including the action, the *Register* citation, the effective date, and the *Code* Supplement number in which the Section, Appendix, Exhibit, Illustration, or Table was published.

“Illustration” means supplementary material used for diagrams, pictures, and other graphics.

“Label” means the number or letter that is assigned to a division of the *Code* and to its subsections and that identifies the particular *Code* division or subsection.

“Notice form” means the form prescribed by the Office that an agency uses when submitting material to the Office for filing or publication.

“Office” means the Office of the Secretary of State, Public Services Division.

“Part” means a division of the *Code* between Article and Section.

“Public record,” for purposes of this Chapter, means the rulemaking documents as filed by state agencies with the Secretary of State, the rules as published by the Secretary of State in either the *Code* or the *Register*, or the rules as generated in any electronic format by the Secretary of State.

“Register” means the *Arizona Administrative Register*, published under A.R.S. § 41-1013.

“Renumbering” means changing the numbers of one or more whole Sections. Renumbering does not include changing the labels of subsections within a Section.

“Repeal” means to rescind a rule by removing it from the *Code*.

“Rule” means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of an agency. Rule includes prescribing fees or the amendment or repeal of a

prior rule but does not include intra-agency memoranda that are not delegation agreements. (A.R.S. § 41-1001(17))

“Rulemaking” or “rulemaking activity” means the process a state agency uses to make, amend, or repeal a rule.

“Rulemaking package” or “rulemaking documents” means all material filed as a unit with the Office as part of rulemaking.

“Section” means an individual rule that is a unit of an Article or Part.

“Section number” means the number that identifies a Section.

“Subchapter” means a division of the *Code* between Chapter and Article.

“Subsection” means a division of a Section of the *Code*.

“Summary rule” means a rule made under A.R.S. § 41-1027.

“Supplement” means a quarterly update to the *Code*.

“Table” means supplementary material containing tabular information.

“Title” means a subject area in the codification of the *Code*.

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6).

Amended paragraph (9) effective October 27, 1988 (Supp. 88-4). Section repealed, new Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-102. Codification Outline

All rules filed with the Office and made under the Act or under an exemption from all or part of the rulemaking process specified in the Act or provided in the Constitution of Arizona and rules made under an exemption from the Act by other statutes and submitted to the Office after September 30, 1992, are organized within the following Titles:

- Title 1. Rules and the Rulemaking Process
- Title 2. Administration
- Title 3. Agriculture
- Title 4. Professions and Occupations
- Title 5. Corrections
- Title 6. Economic Security
- Title 7. Education
- Title 8. Emergency and Military Affairs
- Title 9. Health Services
- Title 10. Law
- Title 11. Mines
- Title 12. Natural Resources
- Title 13. Public Safety
- Title 14. Public Service Corporations; Corporations and Associations; Securities Regulation
- Title 15. Revenue
- Title 16. Tax Appeals
- Title 17. Transportation
- Title 18. Environmental Quality
- Title 19. Alcohol, Horse and Dog Racing, Lottery, and Gaming
- Title 20. Commerce, Banking, and Insurance

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed, new Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-103. Submission Requirements for Publication and Filing

- A. An agency submitting material for filing or publication in the *Register* or *Code* shall send one original and two copies to the Office.
- B. All pages of an original document and all copies, including all receipts and certificates accompanying the document, shall be printed on one side. All pages shall have a one-inch margin on all edges. All pages of the original document shall be double-spaced or spaced space-and-a-half. The following may be single-spaced:
 1. The Economic, Small Business, and Consumer Impact Statement;
 2. Incorporated-by-reference material; and
 3. Incorporated by reference material.
- C. The text and images on all original pages and copies shall appear clear and legible. The Office shall return to the agency a rulemaking package that does not contain an original of both the text and all supplementary material. An agency shall not use a text font size smaller than 9 point or larger than 12 point.
- D. An agency shall file only one Chapter per notice for any rulemaking activity. If an agency files more than one Chapter per notice, the Office shall return the notice to the agency.
- E. All rulemaking packages submitted for publication shall meet the following requirements:
 1. The original shall not be stapled, nor shall it or any of the copies be hole punched. The Office shall not accept pleading paper, with numbers and vertical lines along the right- or left-hand margins.
 2. Each document containing rules or relating to the rulemaking process submitted for publication shall specify on the notice or on the Preamble, as applicable, the *Code* citation, *Code* divisions, and the specific Sections involved. Subsections shall not be specified in the column headed “Sections Affected.” Articles, Parts, and Subchapters shall be specified if their labels or headings are being changed or if the Articles, Parts, and Subchapters are being added to the Chapter or repealed in their entirety.
 3. Underlining shall be used for text added to rules. This includes new language for a Chapter, Article, or existing Section, the addition of an entire Section, the addition of new language in existing supplementary material, or the addition of new supplementary material. Underlining shall not be used in the text of rules for any other purpose.
 4. The Preamble of a rulemaking package shall not contain footnotes or endnotes. This subsection does not apply to the Economic, Small Business, and Consumer Impact Statement and material that is incorporated by reference.
 5. A table of contents listing all Sections and other divisions of the Chapter on which rulemaking is taking place shall be included in the rulemaking package after the last item in the Preamble and before the text of the first Section. Sections, Articles, or Parts, if applicable, not having rulemaking action taken in a particular rulemaking package shall not be included in the table of contents. The table of contents shall not include page numbers to the various Sections in the rulemaking, nor shall it be labeled “Table of Contents.”
 6. Pages in the package shall be consecutively numbered, from the first page of the Preamble through the last page of the text of the rules or supplementary material appearing at the end of the rulemaking package.
 7. An agency shall compile a rulemaking package before submitting it to the Office. An agency shall place the receipts on top of the entire submission and place the

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original package and each copy of the items listed below in the following order:

- a. The Council certificate of approval or the Attorney General certificate of approval, if applicable;
 - b. The agency certificate;
 - c. The notice, including the Preamble;
 - d. The table of contents;
 - e. The text of the rule including supplementary material within the rules;
 - f. The Economic, Small Business, and Consumer Impact Statement, if applicable; and
 - g. Incorporated-by-reference material and other information required to be filed with the rule (compiled only with the original rule package).
- F. The Office shall not accept but shall return to the agency a rulemaking package that does not meet the requirements of this Chapter.

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6).
Amended subsection (A) effective July 8, 1987;
Amended subsection (A) effective September 22, 1987 (Supp. 87-3). Amended subsection (A) effective October 8, 1987; Amended subsection (A) effective December 22, 1987 (Supp. 87-4). Amended subsection (A) effective February 22, 1988 (Supp. 88-1). Amended subsection (A) effective July 13, 1988 (Supp. 88-3). Amended subsection (A) effective October 27, 1988 (Supp. 88-4).
Amended subsection (A) effective March 2, 1989 (Supp. 89-1). Amended effective February 21, 1990, and March 8, 1990 (Supp. 90-1). Section repealed, new Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-104. Submitting Material for Publication

- A. An agency submitting a rulemaking package or other notice, as specified in the Act and this Chapter, to the Office for publication in the *Register* shall follow deadlines established by the Office and published in the *Register*.
- B. An agency shall submit its rulemaking package in paper copy and in an electronic medium. All electronic media submissions shall be compatible with the Office's computer system and software. An agency shall not save electronic format rules as templates.
- C. Information other than rulemaking notices required by law to be published in the *Register* shall be submitted to the Office in an electronic medium and in paper copy. This information includes agency ombudsmen names and addresses, notices of substantive policy statements, notices of guidance documents, notices of proposed and final delegation agreements, and notices of formal rulemaking advisory committees.
- D. An agency shall use the correct notice form prescribed by the Office when submitting material to the Office for publication or filing. An agency shall contact the Office when using a form not prescribed by the Office.

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed, new Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-105. Certificates

- A. An agency certificate shall accompany each rulemaking package. The Office shall not consider a package submitted to the

Office without an agency certificate to be formally filed. The certificate shall be printed on one side and shall state the following:

1. The heading "AGENCY CERTIFICATE" in capital letters centered on a line at least one inch from the top of the page;
 2. The type of notice being submitted, in capital letters centered on a line below "AGENCY CERTIFICATE"; and
 3. The following numbered items:
 - a. The agency name;
 - b. The Chapter heading;
 - c. The *Code* citation for the Chapter;
 - d. The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, in numerical order;
 - e. The signature, in ink, of the agency chief executive officer or designee, attesting that the material being submitted is a true and correct version of the rule proposed or made by the agency. The certificate shall include the printed or typed name of the person signing the form, the person's title, and the date of signing; and
 - f. For a final rule, a statement that no changes have been made since the Council approved the rule if the rule is subject to Council review and approval.
- B. A Council certificate of approval shall accompany all final rules subject to Council review. When the Council submits the rules to the Office for an agency, the certificate shall be attached to the rules as approved by the Council. The Office shall not accept any final rulemaking package subject to Council review and approval if the Council certificate of approval is missing or altered in any way.
- C. An Attorney General certificate of approval or disapproval shall accompany all rules subject to Attorney General review. The certificate shall be attached to the original rulemaking document within the rulemaking package. The Office shall not accept a rulemaking package subject to Attorney General review and approval if the Attorney General certificate of approval or disapproval is missing or altered. If the Attorney General does not approve one or more Sections in the rulemaking, the Attorney General shall prepare a certificate of disapproval listing all Sections not approved and attach it to the package.
- D. An agency certificate accompanying a rulemaking package containing rules exempt from both Council and Attorney General review shall include the information specified in subsections (A)(1) through (3) and shall include a statement specifying why the rules are exempt from review along with a citation to the statutory or constitutional provision or a citation to the court decision specifying the exemption.
- E. On an agency certificate, the agency chief executive officer's name and title shall be typed under the signature and the date of signing shall be indicated. If a designee signs the certificate, the designee's name and title shall be typed under the signature and the date of signing shall be indicated. The Office shall not accept an agency certificate that contains one person's signature and another person's typed name.

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed, new Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-106. Receipts

An agency submitting a rulemaking package or other document to the Office for publication or filing under the Act shall attach at least two copies of a receipt. The Office shall time- and date-stamp all receipts, keep one receipt for its files, and return the other receipts to the agency. The receipt shall be printed on one side and shall state the following:

1. The heading "AGENCY RECEIPT" in capital letters centered on a line at least one inch from the top of the page;
2. The type of notice being submitted, in capital letters centered on a line below "AGENCY RECEIPT"; and
3. The following numbered items:
 - a. The agency's name; and
 - b. If applicable, the Title, Chapter, Subchapter, Article, Part, and Sections that are contained in the rulemaking package and the rulemaking action occurring on each.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-107. Filing Location

An agency, the Council, or the Attorney General shall either file rules in person with the Office at the State Capitol Executive Tower, 1700 West Washington, 7th Floor, Phoenix, Arizona, or mail the rules to: Secretary of State, Public Services Division, 1700 West Washington, 7th Floor, Phoenix, Arizona 85007-2888. The Office shall accept a document for filing or publication only if it meets the requirements specified in the Act and this Chapter.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-108. Editing and Relabeling by the Office

The Office may edit and relabel the text of rules under A.R.S. § 41-1011.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-109. Correction of Errors

- A. After a proposed rulemaking package is filed with the Office, an agency may make a substantive change in the text only by filing a supplemental proposed rulemaking package showing the change, as specified in R1-1-507 and A.R.S. § 41-1022(E).
- B. After a final, proposed summary, final summary, exempt, or emergency rulemaking package is filed with the Office, an agency may request that the Office correct a manifest typographical or clerical error in the text by filing the corrected pages, accompanied by a letter signed by the agency's chief executive officer or the officer's designee requesting the Office to correct the error and specifying why the agency considers the error a manifest typographical or clerical error. The corrected pages and the letter shall both indicate the specific changes to be made. Both the original rulemaking package and the corrected pages shall remain on file. An error that the Office considers substantive in nature shall be corrected through the regular rulemaking process.

- C. If, upon review, an issuing agency discovers an error in its rules as published in the *Code* or *Register*, the agency shall notify the Office in writing about the error.

1. If the error is substantive and was in the document as submitted by the agency, the agency shall go through the regular rulemaking process to correct the error.
2. If the error is a manifest typographical or clerical error, the agency shall follow the procedure in subsection (B), and the Office shall follow the procedure in subsection (D) to print the correction.

- D. If the Office finds an error in the printing of a rulemaking package in the *Register* or *Code* or an agency notifies the Office about a manifest typographical or clerical error and follows the procedures specified in this Section, the Office shall correct the error in the next available issue of the *Register* or supplement to the *Code* if the Office determines that the error would confuse or mislead the reader. If the error would not confuse or mislead the reader or is in a note or heading not considered part of the rule, the Office shall correct the error and publish the correction in the next supplement to the *Code*.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-110. Effective Date

- A. For a final or emergency rule, the effective date is 60 days after the date of filing in the Office, unless:
 1. The Council or the Attorney General approves an effective date earlier than 60 days after the date of filing in the Office, or
 2. An agency specifies an effective date later than 60 days after the date of filing in the Office.
- B. For a summary rule, the interim effective date is the date the proposed summary rule is published in the *Register*. If the Council approves the summary rule and files it in the Office, the interim effective date becomes the permanent effective date 60 days after the date of filing in the Office.
- C. For a Notice of Recodification, the effective date is the date of filing in the Office.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-111. Repealed**Historical Note**

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Section repealed by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-112. Public Inspection of Documents; Copies

- A. Documents filed with the Office under the Act are available for public inspection in the Office during regular office hours. Regular office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except state holidays.
- B. A person may request, during regular office hours, a copy of a rulemaking document on file in the Office. The Office shall charge the per-page statutory copy fee specified in A.R.S. § 41-126(A)(1) for all copy requests.
- C. The Office shall make available for review incorporated-by-reference material under R1-1-414.

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- D. A person requesting a certified copy of a document filed in the Office shall pay the statutory certification fee plus the per-page statutory copy fee specified in A.R.S. § 41-126(A).
- E. The Office shall collect the fees listed in R1-1-113 for individual issues of the *Register* or rules published in the *Code* in both print and electronic media.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-113. Fees

- A. The fees for the *Register*, covering publication and distribution costs, are as follows:
 - 1. For a one-year subscription to the *Register* in print format:
 - a. For noncommercial use: \$276.
 - b. For commercial use: \$5,500.
 - 2. For a single issue of the *Register* or a single issue of the Semi-annual Index:
 - a. In print format for noncommercial use: \$7;
 - b. In print format for commercial use: \$125;
 - c. On electronic medium for noncommercial use: the cost of computer time at \$35 per hour or portion of an hour;
 - d. On electronic medium for commercial use: \$125 plus the cost of computer time at \$35 per hour or portion of an hour.
- B. The fees for the printed *Code*, covering publication and distribution costs, are as follows:
 - 1. For noncommercial use:
 - a. For a full set of the *Code*, including binders: \$450.
 - b. For an annual subscription for quarterly updates to the complete set of the *Code*: \$125.
 - c. For individual Chapters and Titles:
 - i. For an entire Title: the sum of the charges for all Chapters within the Title as specified in subsection (B)(1)(c)(ii).
 - ii. For a Chapter: \$1 for one to four pages and \$1 for each additional 10 pages or portion of 10 pages.
 - d. For an individual *Code* supplement: the sum of the charges of all Chapters within the supplement, as specified in subsection (B)(1)(c)(ii).
 - 2. For commercial use:
 - a. For a full set of the *Code*, including binders: \$15,000.
 - b. For individual Chapters and Titles:
 - i. For a Chapter: \$84.
 - ii. For an entire Title: the sum of the charges for all Chapters within the Title, as specified in subsection (B)(2)(b)(i).
 - c. For an individual *Code* supplement: the sum of the charges of all Chapters within the supplement, as specified in subsection (B)(2)(b)(i).
- C. The fees for rules on electronic media available to the Office are as follows:
 - 1. For a person, company, organization, business, or governmental agency buying a Chapter on electronic medium for noncommercial use: the cost of computer time at \$35 per hour or portion of an hour.
 - 2. For a person, company, organization, business, or governmental agency buying a Chapter on electronic medium for a commercial purpose as stated in A.R.S. § 39-121.03:

\$85 and computer time at \$35 per hour or portion of an hour.

- 3. For a person, company, organization, business, or governmental agency downloading a Chapter from the internet for a commercial purpose as stated in A.R.S. § 39-121.03: \$84.

- D. The fee for a binder for the *Code*: \$5.

- E. A purchaser shall pay in advance for materials bought from the Office. Payment shall be made by cash, check, or money order, unless the order is from a governmental agency, in which case a government purchase order or fund transfer form may be used.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by exempt rulemaking at 9 A.A.R. 3825, effective August 22, 2003 (Supp. 03-3).

R1-1-114. Official Distribution of the *Register* and the *Code* at No Charge

- A. The Office shall distribute copies of the *Register* and the *Code* to the following, upon request, without charge:
 - 1. Governor: one copy;
 - 2. Legislature:
 - a. The Senate: six copies;
 - b. The House of Representatives: six copies;
 - c. The Department of Library, Archives, and Public Records: three copies;
 - 3. Attorney General: 15 copies;
 - 4. Supreme Court: one copy;
 - 5. Counties. Each county law library (or one major public or university library per county if the county does not have a law library): one copy. The County Board of Supervisors shall specify to the Office the library to which the subscription is to be sent when there is no county law library;
 - 6. Governor's Regulatory Review Council: one copy of the *Register* and one copy of the *Code*.
- B. The Office may distribute one copy of individual Chapters as printed in a *Code* supplement free of charge to the agency filing the final, summary, emergency, or exempt rule if the agency requests a copy.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

ARTICLE 2. THE ARIZONA ADMINISTRATIVE REGISTER

R1-1-201. Publication Schedule and Deadlines

- A. The Secretary of State shall publish the *Register* under A.R.S. § 41-1013. The Office shall include the schedule of publication dates and deadlines in each issue of the *Register* and shall make copies of the schedule available in the Office. The Office shall publish each document filed and approved for publication in the *Register* according to the published schedule.
- B. The Office shall not waive a deadline for submission of documents for any agency.

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed, new Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-202. Contents

Each issue of the *Register* shall contain all material submitted in the categories specified by A.R.S. §§ 41-1013 and 49-112 and any other items required by state statute or session law to be published in the *Register*.

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Amended effective October 27, 1988 (Supp. 88-4). Section repealed, new Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-203. Repealed**Historical Note**

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed, new Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Section repealed by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-204. Repealed**Historical Note**

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed, new Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Section repealed by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-205. Notice of Rulemaking Docket Opening

- A. When a rulemaking docket is established, an agency shall submit a notice of rulemaking docket opening to the Office.
- B. The Notice of Rulemaking Docket Opening shall contain the heading NOTICE OF RULEMAKING DOCKET OPENING in all capital letters centered on a line approximately one inch from the top of the page; followed by the name of the agency below the notice heading centered on the line. The remainder of the notice shall contain the following information in the same numbered order:
 1. The Title and its heading; the Chapter and its heading; the Subchapter and its heading, if applicable; the Article and its heading; the Part and its heading, if applicable; and the appropriate Section numbers;
 - a. If an agency does not know specific Sections at the time of docket opening, the agency may specify "Sections to be determined."
 - b. If an agency knows specific Sections but may want to add Sections to the rulemaking as the rulemaking is drafted, the agency shall specify the particular Sections and add the language "Sections may be added, deleted, or modified as necessary."
 2. The subject matter of the proposed rule and the agency docket number, if applicable;
 3. A citation to all published notices relating to the proceeding, including the type of published notice, the *Register* volume number; the abbreviation "A.A.R."; the page number on which the notice began; and the issue date including month, day, and year;
 4. The name and address of agency personnel with whom persons may communicate regarding the proposed rule (this may include a telephone number, fax number, and e-mail address);
 5. The time during which the agency will accept written comments and the time and place where oral comments may be made; and

6. A timetable for agency decisions or other action on the proceeding, if known.

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed, new Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-206. Notice of Formal Rulemaking Advisory Committee

- A. If an agency appoints a formal advisory committee to comment on a rule under consideration, the agency shall, at the time the committee is formed, submit to the Office for publication in the *Register* a Notice of Formal Rulemaking Advisory Committee. The notice shall contain the heading NOTICE OF FORMAL RULEMAKING ADVISORY COMMITTEE in all capital letters, centered on a line approximately one inch from the top of the page and followed by the items listed below in the same numbered order:
 1. The name of the agency;
 2. The specific rule or subject matter on which the committee is to comment, if known;
 3. The names of the committee members; and
 4. The date the committee was formed.
- B. An agency appointing a formal advisory committee shall submit a notice annually to the Office for publication in the *Register* in the form specified in subsection (A).

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-207. Repealed**Historical Note**

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-208. Notice of Proposed Delegation Agreement; Notice of Final Delegation Agreement

- A. An agency seeking to delegate functions, powers, or duties shall submit to the Office a Notice of Proposed Delegation Agreement that contains the heading NOTICE OF PROPOSED DELEGATION AGREEMENT in all capital letters, centered on a line approximately one inch from the top of the page, followed by the items listed below in the same numbered order:
 1. Name of the agency proposing the delegation agreement;
 2. Name of the political subdivision to which functions, powers, or duties of the agency are proposed to be delegated;
 3. Name and address of agency personnel to whom persons may direct questions or comments;
 4. Summary of the delegation agreement and the subjects and issues involved;
 5. Statement that a copy of the proposed delegation agreement may be obtained from the agency and any pertinent information on how a person may obtain the copy; and
 6. Schedule of public hearings on the proposed delegation agreement.
- B. An agency proposing a delegation agreement shall follow the procedures specified in A.R.S. § 41-1081.
- C. After an agency considers any comments received and determines whether to enter into the delegation agreement, the agency shall issue a final decision. The delegation agreement

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is effective 30 days after written notice of the agency's final decision is given unless an appeal is filed and pending before the Council.

- D.** If no appeal is pending, at the end of the 30-day period following the agency's issuance of its final decision, the agency may submit to the Office for publication a Notice of Final Delegation Agreement that contains the heading NOTICE OF FINAL DELEGATION AGREEMENT in all capital letters, centered on a line approximately one inch from the top of the page, followed by the items listed below in the same numbered order:
1. Name of the agency entering into the final delegation agreement;
 2. Name of the political subdivision to which functions, powers, or duties of the agency are being delegated;
 3. Citation to the Notice of Proposed Delegation Agreement;
 4. Name and address of agency personnel to whom persons may direct questions or comments;
 5. Summary of the delegation agreement and the subjects and issues involved;
 6. Statement that a copy of the final delegation agreement may be obtained from the agency and any pertinent information on how a person may obtain the copy;
 7. Date of issuance of agency's final decision to enter into the delegation agreement; and
 8. Date the delegation agreement becomes effective.

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed, new Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-209. Notice of Oral Proceeding, Public Workshop, or Other Meeting

- A.** If an agency schedules an oral proceeding, public workshop, or other meeting on a proposed rulemaking or an oral proceeding on a proposed delegation agreement after the Notice of Proposed Rulemaking or Notice of Proposed Delegation Agreement is submitted to the Office for publication in the *Register*, the agency shall send to the Office one original and two copies of a notice of oral proceeding, public workshop, or other meeting on proposed rules or a notice of oral proceeding, public workshop, or other meeting on proposed delegation agreement, whichever is appropriate.
- B.** A notice of oral proceeding, public workshop, or other meeting on proposed rules, a public meeting on rules after an agency has submitted the notice of docket opening for publication but before the Office publishes the rules as proposed rules in the *Register*, a notice of oral proceeding on a proposed delegation agreement, or a notice of oral proceeding on a proposed rule, ordinance, or other regulation under A.R.S. § 49-112 shall be as specified below:
1. For an oral proceeding on a proposed rulemaking, the heading NOTICE OF ORAL PROCEEDING ON PROPOSED RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page and followed by the items listed below in the same numbered order:
 - a. The name of the agency;
 - b. The Title and its heading; the Chapter and its heading; the Subchapter and its heading, if applicable; the Article and its heading; and the Part and its heading, if applicable;
 2. For a public workshop on a proposed rulemaking, the heading NOTICE OF PUBLIC WORKSHOP ON PROPOSED RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page and followed by the items listed below in the same numbered order:
 - a. The name of the agency;
 - b. The Title and its heading; the Chapter and its heading; the Subchapter and its heading, if applicable; the Article and its heading; and the Part and its heading, if applicable;
 - c. The Sections being proposed in numerical order in one column with the specific action being taken on each Section in the second column;
 - d. The *Register* citations to all notices published in the *Register* concerning the proposed rulemaking;
 - e. The date, time, and location of the public workshop; and
 - f. The name and address of agency personnel to whom questions and comments on the proposed rules may be addressed.
 3. For a public meeting on an open rulemaking docket, the heading NOTICE OF PUBLIC MEETING ON OPEN RULEMAKING DOCKET in all capital letters, centered on a line approximately one inch from the top of the page and followed by the items listed below in the same numbered order:
 - a. The name of the agency;
 - b. The Title and its heading; the Chapter and its heading; the Subchapter and its heading, if applicable; the Article and its heading; and the Part and its heading, if applicable;
 - c. The Sections being proposed in numerical order in one column with the specific action being taken on each Section in the second column, if known;
 - d. The *Register* citation and the date of the notice of docket opening and all supplemental notices published in the *Register*;
 - e. The date, time, and location of the public meeting; and
 - f. The name and address of agency personnel to whom questions and comments on the subject matter of the rules may be addressed.
 4. For an oral proceeding on a proposed delegation agreement, the heading NOTICE OF ORAL PROCEEDING ON PROPOSED DELEGATION AGREEMENT in all capital letters, centered on a line approximately one inch from the top of the page and followed by the items listed below in the same numbered order:
 - a. The name of the agency proposing the delegation agreement;
 - b. The name of the political subdivision to which the agency is proposing to delegate functions, powers, or duties;
 - c. A summary of the proposed delegation agreement;
 5. The Sections being proposed in numerical order in one column with the specific action being taken on each Section in the second column;
 6. The *Register* citations to all notices published in the *Register* concerning the proposed rulemaking;
 7. The date, time, and location of the oral proceeding; and
 8. The name and address of agency personnel to whom questions and comments on the proposed rules may be addressed.

- d. The *Register* citation and date of the notice of proposed delegation agreement and all supplemental notices published in the *Register*;
- e. The date, time, and location of the oral proceeding; and
- f. The name and address of agency personnel to whom questions and comments on the proposed delegation agreement may be addressed.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-210. Notice of Agency Guidance Document; Notice of Substantive Policy Statement

- A. An agency shall submit to the Office a Notice of Agency Guidance Document under A.R.S. § 41-1013(B)(14) for publication in the *Register*. This notice shall contain the heading NOTICE OF AGENCY GUIDANCE DOCUMENT, in all capital letters, centered on a line approximately one inch from the top of the page; followed by the name of the agency below the notice heading and also centered on the line; followed by the items listed below in the same numbered order:
 - 1. Title of the guidance document and the guidance document number by which the document is referenced;
 - 2. Date of the publication of the guidance document and the effective date of the document if different from the publication date;
 - 3. Summary of the contents of the guidance document; and
 - 4. Statement as to whether the guidance document is a new document or a revision.
- B. An agency shall submit to the Office a Notice of Substantive Policy Statement, under A.R.S. § 41-1013(B)(14), for publication in the *Register*. This notice shall contain the heading NOTICE OF SUBSTANTIVE POLICY STATEMENT, in all capital letters, centered on a line approximately one inch from the top of the page; followed by the name of the agency below the notice heading and also centered on the line; followed by the items listed below in the same numbered order:
 - 1. Title of the substantive policy statement and the substantive policy statement number by which the substantive policy statement is referenced;
 - 2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date;
 - 3. Summary of the contents of the substantive policy statement;
 - 4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement; and
 - 5. Statement as to whether the substantive policy statement is a new statement or a revision.
- C. A notice shall concern only one agency guidance document or substantive policy statement.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-211. Summary of Council Action

The Council shall submit to the Office for *Register* publication a summary of Council action on each final rule or summary rule. Rules of one Chapter, one Subchapter (if applicable), or one Article

if the Article has Parts, grouped together into one rulemaking package, may be summarized together if the specific Sections affected are listed.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-212. Agency Ombudsman

An agency designating an ombudsman under A.R.S. § 41-1006 shall submit the name of its ombudsman annually no later than February 1 of each year to the Office for publication in the *Register*. The notice shall contain the heading NOTICE OF AGENCY OMBUDSMAN in all capital letters, centered on a line approximately one inch from the top of the page followed by the items listed below in the same numbered order:

- 1. The agency's name;
- 2. The ombudsman's name;
- 3. The ombudsman's title;
- 4. The ombudsman's office address including zip code; and
- 5. The ombudsman's office telephone number and fax number, if available.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

ARTICLE 3. THE ARIZONA ADMINISTRATIVE CODE**R1-1-301. Development of the Code**

- A. The Office may establish new Titles in the *Code* and rearrange existing Titles and Chapters to ensure orderly development of the *Code*. The Office shall notify each agency whose rules are affected by any rearrangement.
- B. The first volume of the *Code* contains a Table of Contents for the multi-volume *Code*, a Table of Titles and Chapter Headings, the Administrative Procedure Act, and other material to help the public find specific rules. A Table of Contents listing the Chapters, Subchapters, Articles, and Parts appearing in a Title appears at the beginning of each Title.

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed, new Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-302. Publication of the Code and its Supplements

- A. The Office shall publish the *Code* in loose-leaf form as specified in the Act.
- B. The Office shall update the *Code* by quarterly supplements containing all final, summary, emergency, and exempt rules filed in the Office during each calendar quarter.
- C. Supplements are dated with the last day of the calendar quarter. Supplements are numbered according to the calendar year of publication and the number of the quarter. The Office shall publish a supplement calendar in the *Register*.
- D. Supplements are printed in complete Chapters.
- E. Each time the Office publishes a supplement to the *Code*, the Office issues a new price list showing all Chapters in the *Code* in numerical order and indicating the last supplement in which each Chapter was printed along with the price for each Chapter.

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- F. Persons may buy individual Chapters or Titles of the *Code*, or they may buy an entire set. Persons who buy an entire set are eligible to buy an annual subscription, which contains quarterly supplements.

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed, new Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-303. Repealed

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).

R1-1-304. Repealed

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Amended subsections (A), (B) and (C) effective July 13, 1988 (Supp. 88-3). Section repealed effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).

R1-1-305. Repealed

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).

R1-1-306. Repealed

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).

R1-1-307. Repealed

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).

R1-1-308. Repealed

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).

ARTICLE 4. RULE DRAFTING

R1-1-401. Rule Drafting

An agency preparing a rulemaking package for filing with the Office shall draft it in accordance with this Chapter.

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed, new Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-402. Assignment of *Code* Divisions; Headings

- A. The Office shall arrange and classify the subject matter of the *Code* according to a system of Titles. The Titles are divided into Chapters. The heading of a Chapter containing rules of one major program or subject specifies both the name of the

agency and the program or subject. Chapters are divided into Articles. Articles that cover several subjects or regulate different groups of people are divided into several Parts. Parts and Articles without Parts are divided into Sections. Some Chapters may also contain two or more Subchapters. An agency shall request and receive approval from the Office for Subchapter and Part divisions before using these divisions.

- B. All Titles, Chapters, Subchapters (if applicable), Articles, Parts (if applicable), and Sections shall have a heading that describes the subject of that division of the *Code*. A heading shall not contain the word “Rule” or “Regulation.”
- C. A heading shall have capital letters for the first letter of the first and last words, and the first letter of important intermediate words.

Historical Note

Adopted effective January 1, 1987 (Supp. 86-6). Section repealed, new Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-403. Numbering System

- A. A Section number is preceded by the letter “R”.
- B. A hyphenated numbering system is used in the *Code*.
1. A Section number includes the “R”, the Title number, the Chapter number, the Subchapter label (if applicable), and the Section number indicating the Article number and the Part label (if applicable).
 2. The one or two numbers to the far left indicate the number of the Title in which the Section appears.
 3. The one or two numbers between the two hyphens indicate the Chapter number. If the Chapter has been assigned a Subchapter, the Subchapter letter label appears immediately after the Chapter number before the hyphen.
 4. The numbers to the far right indicate the Section number. A Section number has at least three digits. The last two digits indicate the Section and the number or numbers to the left of these two digits indicate the Article number. If an Article has been assigned a Part, the Part’s letter label appears immediately after the second hyphen before the Section number.
- C. The first Section in each Article is numbered 101, 201, 301, and so on, as applicable. Sections shall be numbered consecutively through the Article except where Section numbers are reserved for future expansion. Any Section number not used when the rules are originally made is automatically reserved. An agency shall specify “Reserved” for an unused Section when the Section falls before a Section with text in the same Article or Part. Sections that are reserved are shown when the rules are published in the *Code*. Sections that are renumbered or repealed so that no text remains shall be headed with the appropriate term; “Reserved” shall not be used for these Section headings.
- D. A Section number is not complete unless it contains all portions specified in subsection (B). An agency shall use only complete Section numbers in its rules, on a notice of rulemaking activity, or in any material submitted to the Office for either publication or filing.
- E. Titles, Chapters, Articles, and Sections shall be designated by Arabic numbers. Subchapters and Parts shall be designated by capital letters.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-404. Renumbering Sections within a Chapter

- A. If an agency renumbers one or more Sections at the time the agency amends other existing Sections:
1. The table of contents for the rulemaking package shall show the old number of the Section with strike-outs and the new number with underlining.
 - a. If an agency makes a new Section at the old number, the agency shall show the old heading with strike-outs and the new heading with underlining;
 - b. If an agency renumbers another existing Section to the old Section number, the agency shall show the heading and text of the moved Section at the location of its new number and strike-outs through the moved Section number and its new number with underlining;
 - c. If an agency is not making new text or moving text to the location of a renumbered Section, the agency shall show the old Section heading with strike-outs and the term "Renumbered" with underlining next to the old number of the renumbered Section.
 2. The table of contents shall show Sections and Articles in the order the Sections are being made.
 3. The Sections shall appear in numerical order as renumbered.
- B. If an agency is renumbering one or more Sections within a Chapter but is making no other changes, the agency shall do one of the following:
1. Prepare a Notice of Recodification as specified in R1-1-1001, or
 2. Make the numbering change using the regular rulemaking process.
- C. Only entire Sections may be renumbered or recodified in the matter described in this Section. If an agency splits an existing Section into two or more Sections, or moves a portion of one Section to another Section, or combines two or more Sections into one Section, the agency shall follow the regular rulemaking process to make the changes.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-405. Addition of a New Section Between Existing Sections

An agency shall request, in writing or orally, and receive the Office's permission before inserting a new Section between two existing, consecutively numbered Sections. The agency shall number the new Section using the Section number of the preceding existing Section, followed by a decimal point and a two-digit number. The new Section shall be in numerical order.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-406. Repeal and Re-use of a Chapter Number

If an agency repeals or renumbers all Sections in a Chapter, or if all Sections in a Chapter expire, the agency shall not use the Chapter number for one year.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-407. Authority Notes

If an agency requests that the specific or general authority for a Chapter, Subchapter, Article, or Part be published in its rules in the *Code*, the agency shall include an authority note under which the rules in that Chapter, Subchapter, Article, or Part were made. This note appears immediately below the Chapter, Subchapter, Article, or Part heading, as applicable, in the Chapter's table of contents and specifies the statutes that the rules are implementing (the specific authority) and the statutes that authorize the agency to do rulemaking (the general authority). An agency's failure to include a statute or portion of a statute in the authority note does not negate the agency's authority to make the rule.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-408. Text of the Rules; Subsections

- A. The divisions of a Chapter (Title, Chapter, Subchapter (if applicable), first Article, and first Part (if applicable)) and their labels and headings shall appear above the Section number and heading of the first Section in a rulemaking package. An agency shall center on each line these divisions and their labels and headings.
- B. If a Section has only one subsection, an agency shall leave that subsection unlabeled.
- C. If a Section has an opening subsection followed by labeled subsections, the Office shall treat the opening subsection as an implied subsection (A). An agency shall label and indent appropriately the subsections following the opening subsection as second-level subsections.
- D. If a Section has two or more subsections at any level, an agency shall label the subsections separately. An agency shall label subsections as indicated below.
1. First-level subsections are designated by a capital letter (A., B., C., and so on).
 2. Second-level subsections are designated by an Arabic numeral (1., 2., 3., and so on).
 3. Third-level subsections are designated by a lower case letter (a., b., c., and so on).
 4. Fourth-level subsections are designated by a lower case Roman numeral (i., ii., iii., and so on).
- E. If an agency uses the entire alphabet for subsections at the first or third level, additional subsections shall be labeled with double letters (aa., bb., cc., and so on).
- F. Within the text of a subsection, an agency referring to the same subsection shall use the term "this subsection." An agency referring to a different subsection shall use the term "subsection" and the labels of all appropriate levels, each within its own set of parentheses. If an agency refers to a different Section in the same Chapter, the agency shall specify the correct Section number along with all subsection labels but shall not use the term "Section."
- G. An agency shall not subdivide its rules into more than four levels of subsections unless the agency obtains permission from the Office.
- H. An agency may choose not to label definitions that are listed in alphabetical order or other lists of items in some specific order, although the agency shall indent the definitions or items in the list as if they were labeled at the appropriate level of subsection. If an agency chooses not to label definitions that are listed in alphabetical order or other lists in a specific order, additional levels of subsection under those definitions or lists also shall not be labeled. If an agency quotes statutory language verbatim that contains labeling, the agency shall retain

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the labeling within the statutory language but not the label of the statutory language.

- I. When dividing a Section into subsections, an agency shall not:
 - 1. Leave an unlabeled subsection at any level after a labeled subsection at the same level;
 - 2. Use A. without B.; 1. without 2.; a. without b.; or i. without ii.
- J. When referring to one or more subsections within the text of a subsection, an agency shall enclose the label for each subsection in its own set of parentheses. When referring to second-, third-, and fourth-level subsections, an agency shall specify the labels of each preceding level of subsection. For example, an agency referring to a third-level subsection would state “subsection (A)(2)(c)”; an agency referring to a fourth-level subsection would state “subsection (B)(1)(d)(iii).”
- K. When referring to multiple subsections, an agency shall enclose the label for each subsection in its own set of parentheses, followed by a conjunction and the last subsection label enclosed in parentheses. For example, an agency would state “(A)(1) through (9)”; “(B)(4)(b) and (c)”; or “(C)(1)(a)(i) and (ii).”
- L. When referring to a Section in another Chapter, an agency shall cite the Section number with “A.A.C.” preceding the number. For example, an agency would state “A.A.C. R2-12-201.”
- M. An agency shall not include numbered or lettered phrases within the text of a subsection. These shall be labeled properly and indented at the appropriate level of subsection.
- N. An agency shall contact the Office when using special symbols, fonts, or formats in the text of a rule.
- O. An agency shall define all acronyms and abbreviations not defined in the A.R.S. that the agency uses in the text of its rules in a definitions Section at the beginning of the Chapter.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-409. Citations to the Code, Register, Statutes, and Federal Laws and Regulations

- A. Citations to the *Register* shall include the volume and page number, the abbreviation “A.A.R.”, and the issue date. For example, 7 A.A.R. 1325, March 23, 2001.
- B. Citations to the *Code* shall include the Title, Chapter, Subchapter, Article, Part, and Section, as applicable, and the short form “A.A.C.” For example, 17 A.A.C. 4 and A.A.C. R17-4-301.
- C. Citations to state laws:
 - 1. A citation to a law contained in a published edition of the Arizona Revised Statutes shall include the abbreviation “A.R.S.” and either the specific Section number or the Title number, Chapter number, and Article number in that order. For example, A.R.S. Title 41, Chapter 6, Article 5.
 - 2. A citation to a law that has not yet been published in the Arizona Revised Statutes shall include the following:
 - a. If the reference is to a new Section of the statutes and the codified Section number is known, the citation shall include the Section number followed by the phrase “as added by Laws” and the year the law was passed along with the Chapter number as assigned by the Office and the specific Section of the new law. For example, A.R.S. § 41-1008 as added by Laws 1998, Ch. 57, § 22.
 - b. If the reference is to an amendment of an existing Section of the Arizona Revised Statutes, the citation

shall include the Section number followed by the phrase “as amended by Laws” and the year the law was passed along with the Chapter number as assigned by the Office and the specific Section of the new law that amended this Section of an existing law. For example, A.R.S. § 41-1021 as amended by Laws 1998, Ch. 57, § 27.

- c. Citations to new laws that do not indicate a statutory citation shall include the word “Laws” and the year the law was enacted by the legislature and the Section number within that law. For example, Laws 1998, Ch. 196, § 4.
- 3. When an agency uses a statutory citation and also refers to that law by a commonly used heading, the agency shall enclose the commonly used heading within parentheses.
- D. Citations to federal laws and regulations:
 - 1. Citations to the United States Code (U.S.C.) and the United States Code Annotated (U.S.C.A.) shall include the Title number first, followed by the appropriate abbreviation, followed by the Part number or the Section number. Neither the word “Part” or “Section” nor the Section symbol shall appear in the citation. For example, 10 U.S.C. 1. Citations to laws not yet codified into the U.S.C. or the U.S.C.A. shall be referenced by the words “Public Law” or the abbreviation “P.L.” and the number of the law. For example, P.L. 100-20191.
 - 2. Citations to the Code of Federal Regulations (CFR) shall list the Title number, followed by the appropriate abbreviation, followed by the Part number or the Section number. Neither the word “Part” or “Section” nor the Section symbol shall appear in the citation. Citations to the Federal Register (FR) shall include the volume number, followed by the abbreviation, followed by the page number. FR citations shall also include the date of the publication. For example, 49 CFR 201; 42 FR 10109, July 1, 1997.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-410. Repealed

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Section repealed by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-411. Automatic Repeal of Rules

- A. An agency may provide for the automatic repeal of a Section, in the Section being automatically repealed, by including the day, month, and year of the automatic repeal. This automatic repeal shall be used to repeal only an entire Section. The information specifying the automatic repeal date shall appear in a first-level subsection by itself at the end of the Section.
- B. An agency shall notify the Office, orally or by letter, when the automatic repeal date has passed so the Office can remove the rule from the *Code*. Chapters from which automatically repealed rules are removed shall appear in the next quarterly supplement to the *Code*.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-412. Supplementary Material

- A. An agency including tabular materials, illustrations, diagrams, figures, and other supplementary material in rules shall label them as Appendices, Exhibits, Illustrations, or Tables. An agency shall use supplementary material to make a rule understandable by persons affected by the rule. An agency shall consider all supplementary material included in rules as part of the rules and shall refer to the supplementary material within the text of one or more Sections. An agency shall list Appendices, Exhibits, Tables, and Illustrations in the table of contents for the Chapter.
- B. An agency shall label all Appendices, Exhibits, Illustrations, and Tables with either capital letters or Arabic numbers using a consistent labeling scheme. The specific term the agency uses (Appendix, Exhibit, Illustration, or Table) and its label shall appear in the text along with a heading in the same format that a Section number and heading appear at the beginning of a Section.
- C. Supplementary material appearing within the text of a Section shall not appear in the table of contents. When referencing supplementary material appearing within the text of a Section, an agency shall use the appropriate subsection label.
- D. An agency shall submit only camera-ready supplementary material to the Office for publication or filing. Camera-ready means that the material must be clear and legible when the text is reproduced at 9-point size or the illustration is reproduced to fit within the one-inch margin requirements of an 8 1/2 inch by 11 inch sheet of paper.
- E. An agency shall create tabular material in a rulemaking package using a spreadsheet program or the table function of a word processing program. This subsection does not apply to an Economic, Small Business, and Consumer Impact Statement and material incorporated by reference.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-413. Statutory Language; Italics

- A. Rules may contain statutory language that repeats verbatim existing statutory authority granted to the agency.
- B. If an agency repeats statutory language within the text of a rule, the statutory language shall appear in italics, and the statutory citation shall appear after the statutory language.
- C. Rules may contain the following language in italics:
 1. Titles of books, periodicals, and reports;
 2. Scientific names; and
 3. Court cases (for example, *Marbury v. Madison*).

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-414. Incorporation by Reference; Citation of Referenced Material

- A. Items that may be incorporated by reference within an agency's rules are specified in A.R.S. § 41-1028.
- B. Following the citation of incorporated-by-reference material in the text of the rules shall be a statement specifying that the incorporated material contains no later editions or amendments.
- C. A citation to an item incorporated by reference shall state the publisher's name and address, date of publication, and a location where the item is available if different from the publisher.

If a physical address for the publisher is not available, a web site address may be substituted.

- D. A citation to an item incorporated by reference shall state where a copy of the incorporated by reference material is available from the agency issuing the rule.
- E. An item incorporated by reference and filed with an agency's final rules prior to September 18, 2003 may be viewed in the Office. The Office shall not photocopy any copyrighted material incorporated by reference.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-415. Repeal of a Section; New Text

If an agency deletes the language in an existing Section and simultaneously inserts new language at the same Section number, the rulemaking action of the change listed in item #1 of the Preamble shall be one of the following:

1. A "Repeal" and "New Section" if both the text of the Section and the Section heading are completely changed; or
2. An "Amend" if the entire existing text is repealed, but the Section heading is not completely changed.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

ARTICLE 5. PROPOSED RULEMAKING**R1-1-501. Assignment of Chapters**

An agency preparing to make rules for the first time shall contact the Office, orally or by letter, for assignment of a Title and Chapter number within the codification system. An agency that already has at least one Chapter on file shall contact the Office, orally or by letter, when the agency needs a new Chapter assignment.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-502. Notice of Proposed Rulemaking

- A. A proposed new Section, amendment or repeal of an existing Section, or renumbering of a Section when other changes are also being made, submitted for publication in the *Register* shall be part of a Notice of Proposed Rulemaking. Questions, answers, and other information required to appear in the Preamble of the Notice of Proposed Rulemaking shall appear in the proper order. No question on the notice may be answered "See attached." Supplemental pages may not be used.
- B. The notice shall contain the heading NOTICE OF PROPOSED RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page; followed by the Title, its number, and heading centered on the line under the notice heading; followed by the Subchapter, its label and heading (if applicable) centered on the line under the Title; followed by the Chapter, its number and heading centered on the line under the Title; followed by the word PREAMBLE in all capital letters, on a line under the Chapter; followed by the items listed below in the same numbered order:
 1. The Sections Affected and the Rulemaking Action in two columns;
 - a. In the first column, each Section upon which rulemaking activity is being proposed shall appear in

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- numerical order under the heading “Sections Affected.”
- i. If an Article or Part is involved in the rulemaking because its label or heading is being repealed, added, amended, or renumbered, the Article and its label or the Part and its label shall appear in this list in its appropriate order immediately preceding the Sections contained in that Article or Part.
 - ii. Sections, Parts, and Articles shall not be grouped together in this column; each Section, Part, or Article shall appear individually.
 - iii. If an existing Section is being repealed and new text is being made at that number or if the text of an existing Section is being renumbered and new text, either totally new language or text renumbered from another Section, is being placed at that number, the Section number will appear multiple times with the appropriate individual actions appearing in the second column.
 - iv. A Section not containing text before the rulemaking and not having text added by the rulemaking shall not appear in this column.
- b. In the second column, the rulemaking activity occurring on each Section shall be specified directly across from and on the same line as the Section number under the heading “Rulemaking Action.” If an existing Section is being repealed and new text made at that number, the Section number shall appear twice in the first column and each specific individual action shall appear in the second column.
- i. A Section that contains no text because it was previously reserved, repealed, or renumbered cannot be amended, renumbered, or recodified. A previously repealed Section cannot be repealed again unless new text has subsequently been made at the Section number.
 - ii. If a Section has more than one action on it in a rulemaking, the listing order in the second column shall be as follows: repeal, renumber, and new Section or amend.
2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statute (specific);
 3. A list of all previous notices appearing in the *Register* addressing the proposed rule;
 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking;
 5. An explanation of the rule, including the agency’s reasons for initiating the rulemaking;
 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material;
 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state;
 8. The preliminary summary of the economic, small business, and consumer impact;
 9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement;
 10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule;
 11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules; and
 12. Any material incorporated by reference and its location in the rules.
 13. The phrase “The full text of the rules follows:”. The full text of the rules in the rulemaking package shall begin on the next page after the last item in the Preamble.
 - a. The first item in the text shall be a table of contents for the Chapter showing the label and heading for each Article and each Section involved in the proposed rulemaking.
 - b. The full text of the Sections on which rulemaking is taking place shall begin on the next page after the table of contents. Articles and their headings, and Parts and their headings if applicable, shall appear in their proper place in the text even when only a portion of the Article or Part is involved in the rulemaking package. The text shall appear as follows:
 - i. If the rulemaking package consists of all new rules, the text of the rules shall be properly labeled, in numerical order by Section number, and shall indicate Articles and Parts and their labels and headings. New Section numbers, headings, and text shall be underlined. If a Section number currently exists in the *Code*, it shall not be underlined.
 - ii. If the rulemaking package consists of only repeals of existing complete Sections, the full text of the Sections being repealed shall appear in numerical order by Section number and shall indicate Articles and Parts including their labels and headings. Repealed Section headings and text shall be stricken. Section numbers shall not be stricken.
 - iii. If the rulemaking package consists of amended Sections or a combination of amended Sections, new Sections, and repealed Sections, the full text of all Sections on which rulemaking action is occurring shall appear with underlining indicating new language and strike-outs indicating repealed language. Within a Section, stricken text shall appear before new, underlined text.
 - c. An agency amending some but not all of the subsections in a Section may list the subsections not being amended by subsection label only and the words “No change.” Each level of subsection having no change shall be individually noted. Subsections shall not be grouped together.
 - d. If an agency is renumbering an existing Section, the agency shall show the current Section number with strike-outs and the new Section number underlined immediately beside the current number. Renumbered rules shall appear in the text at the location of their new numbers. If the only action being taken on a Section is to renumber it, immediately under the Section number and its heading shall appear the words “No Change” to indicate that the text is not changing. If an existing Section is renumbered and no text is added at the current Section number, the current Section number shall appear in its proper

numerical order with strike-outs through the old heading but not through the Section number, and a new heading “Renumbered” shall be added with underlining.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-503. Public Comment Period

The public comment period for a proposed rule begins on the day the rule is published in the *Register*. An agency shall allow a minimum of 30 days for public comment after publication. After the end of the public comment period, an agency may hold an oral proceeding.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-504. Oral Proceedings on Proposed Rulemaking

- A. An agency may refer to the publication schedule of the *Register* when scheduling an oral proceeding. An agency shall hold an oral proceeding no earlier than 30 days after the Office publishes the notice of proposed rulemaking in the *Register* under A.R.S. § 41-1023. The Office shall include oral proceedings shown in the notice of proposed rulemaking Preamble in the proposed rules portion of the *Register*. The Office shall list in a different section of the *Register* oral proceedings on rulemaking packages not scheduled by the agency until after the agency has submitted the proposed rulemaking package to the Office as specified in R1-1-209(B)(1).
- B. If an agency submits a proposed rulemaking package to the Office and indicates in the Preamble that an oral proceeding is scheduled to take place before 30 days after the anticipated publication date in the *Register*, the Office shall return the package to the agency.
- C. If an oral proceeding is not scheduled and an agency receives a written request for an oral proceeding from one or more persons, the agency shall file a notice of oral proceeding on proposed rules with the Office in accordance with the *Register* publication schedule, scheduling the oral proceeding to be held no earlier than 30 days after the notice of oral proceeding is published in the *Register*, under A.R.S. § 41-1023. The agency shall file with the Office one original and two copies of the Notice of Oral Proceeding on Proposed Rulemaking. This notice shall be as stated in R1-1-209(B)(1).
- D. If an oral proceeding begins and the proceeding officer publicly announces a time and place for a continuation of the oral proceeding, the agency is not required to submit a notice of oral proceeding to the Office for publication in the *Register*.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-505. Close of the Record

The close of the record for a proposed rule occurs on the date the agency chooses as the last date it will accept public comments. An agency shall not complete a rulemaking until the record is closed.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).

Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-506. Notice of Termination of Rulemaking

- A. To terminate a proposed rulemaking at any stage of the rulemaking process before the final rules are filed with the Office, an agency shall file with the Office one original and two copies of a Notice of Termination of Rulemaking. The agency shall attach the original and two copies of the Notice of Termination of Rulemaking to a copy of the original Notice of Proposed Rulemaking if the agency has filed a Notice of Proposed Rulemaking with the Office.
- B. The Notice of Termination of Rulemaking shall contain the heading NOTICE OF TERMINATION OF RULEMAKING in all capital letters, centered on the line approximately one inch from the top of the page; followed by the Title, its number, and heading, centered on a line below the notice heading; followed by the Chapter, its number and heading, centered on a line below the Title; followed by the items listed below in the same numbered order:
 1. The *Register* citation and the date of the Notice of Rulemaking Docket Opening;
 2. The *Register* citation and the date of the Notice of Proposed Rulemaking; and
 3. The Section numbers (and Article and Part numbers or labels) in numerical order in one column and the action that had been proposed in the second column.
- C. Both the original Notice of Proposed Rulemaking and the Notice of Termination of Rulemaking shall remain on file with the Office.
- D. The Office shall publish a listing of the rules terminated in the *Register*. The Office shall not publish the full text of rules being terminated in the *Register*.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-507. Notice of Supplemental Proposed Rulemaking

- A. If an agency determines that a proposed rule requires substantial change due to either internal review or public comments, the agency shall prepare a supplemental notice for publication in the *Register*. A supplemental notice shall contain every Section undergoing change from the current text in the *Code*, as if the supplemental notice were the agency's first version of the proposed rule.
- B. The supplemental notice shall contain the heading NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING in all capital letters, located one inch from the top of the page; followed by the Title, its number, and heading below the notice heading; followed by the Chapter, its number, and heading below the Title; followed by the Subchapter, its label, and heading below the Chapter, if applicable; followed by the word PREAMBLE in all capital letters, below the Chapter or Subchapter, all of which shall be centered on their respective lines, followed by the items listed below in the same numbered order:
 1. The *Register* citations and dates for the Notice of Rulemaking Docket Opening, the Notice of Proposed Rulemaking, and any Notices of Supplemental Proposed Rulemaking, if applicable;
 2. The Sections Affected and the Rulemaking Action in two columns as specified in R1-1-502(B)(1);
 3. The specific statutory authority for the rulemaking including both the authorizing statute (general) and the implementing statute (specific);

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4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking;
5. An explanation of the rule, including the agency's reasons for initiating the rulemaking;
6. An explanation of the substantial change that resulted in the supplemental notice;
7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision;
8. The preliminary summary of the economic, small business, and consumer impact;
9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement;
10. The time, place, and nature of the oral proceedings for the making, amendment, or repeal of the rule;
11. Any other matters prescribed by statute and applicable to the specific agency or to any specific rule or class of rules; and
12. Any material incorporated by reference and its location in the text.
13. The phrase "The full text of the rules follows:". The full text of the changes shall begin on the page after the last page of the Preamble.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

ARTICLE 6. FINAL RULEMAKING

R1-1-601. Preparation and Filing of a Final Rulemaking Package

- A. If an agency's rules are subject to review by the Council, the agency shall submit its final rulemaking package to the Council within 120 days after the close of record. After the Council approves the final rulemaking package, the Council shall submit the agency's final rulemaking package to the Office for filing and publication. The final rulemaking package shall be as specified in R1-1-602.
- B. If an agency's rules are exempt from the rulemaking process under A.R.S. § 41-1005 or another state statute, the agency shall follow the procedures in Article 9 and submit its final rulemaking package to the Office within 120 days after the close of record.
- C. If an agency's rules are subject to review by the Attorney General, the agency shall submit its final rulemaking package to the Attorney General for approval within 120 days after the close of record. After approval, the Attorney General shall submit the final rule package to the Office for filing and publication.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-602. Notice of Final Rulemaking

- A. A Notice of Final Rulemaking shall contain the heading NOTICE OF FINAL RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page; followed by the Title, its number, and heading centered on a line under the notice heading; followed by the Chapter, its number, and heading centered on a line below the Title; followed by the Subchapter, its label, and heading centered on a

line below the Chapter, if applicable; followed by the term PREAMBLE in all capital letters, centered on a line below the Chapter or Subchapter, whichever is applicable; followed by the items listed below in the same numbered order:

1. The Sections Affected and the Rulemaking Action in two columns as specified in R1-1-502(B)(1);
 2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statute (specific);
 3. The effective date of the rule;
 - a. If the effective date is earlier than 60 days after the date the final rule is filed with the Office, an agency shall specify the date, along with the reason for the effective date;
 - b. If the effective date is later than 60 days after the date the final rule is filed with the Office, an agency shall specify the date, along with the reason for the effective date;
 4. A list of all previous notices appearing in the *Register* addressing the final rule;
 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking;
 6. An explanation of the rule, including the agency's reasons for initiating the rulemaking;
 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material;
 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state;
 9. A summary of the economic, small business, and consumer impact;
 10. A description of the changes between the proposed rule, including supplemental notices, and final rule;
 11. A summary of the comments made regarding the rule and the agency response to them;
 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules;
 13. Any material incorporated by reference and its location in the text;
 14. Whether the rule was previously made as an emergency rule and, if so, whether the text was changed between the making as an emergency and the making of the final rule; and
 15. The phrase "The full text of the rules follows:". The full text of the rules in the rulemaking package shall begin on the next page after the last item in the Preamble.
- B. An original final rulemaking package submitted to the Office for filing and publication shall include two copies of the agency receipt, one copy of incorporated-by-reference material, and the original and two copies of the rulemaking package, including copies of the following documents:
 1. An agency certificate as specified in R1-1-105;
 2. A certificate of approval of the rules by Council if the rules are subject to Council review;
 3. A certificate of approval from the Attorney General if the rules are subject to Attorney General review; and
 4. The economic, small business, and consumer impact statement required by A.R.S. § 41-1055, if applicable.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

ARTICLE 7. EMERGENCY RULEMAKING**R1-1-701. Notice of Emergency Rulemaking**

- A. If an agency determines that a proposed new Section, an amendment to a Section, or a repeal of an existing Section falls within the emergency provisions of A.R.S. § 41-1026, the agency shall prepare a Notice of Emergency Rulemaking. The Notice shall contain the heading NOTICE OF EMERGENCY RULEMAKING in all capital letters, centered on the line approximately one inch from the top of the page; followed by the Title, its number, and heading, centered on a line below the notice heading; followed by the Chapter, its number, and heading, centered on a line below the Title; followed by the Subchapter, its label, and heading, if applicable; followed by the term PREAMBLE in all capital letters centered on a line below the Chapter or Subchapter, whichever is applicable; followed by the items listed below in the same numbered order:
1. The list of Sections Affected and the Rulemaking Action in two columns, as specified in R1-1-502(B)(1);
 2. The specific statutory authority for the rulemaking including both the authorizing statute (general) and the implementing statute (specific);
 3. The effective date of the rule;
 - a. If the effective date is earlier than 60 days after the date the final rule is filed with the Office, an agency shall specify the date, along with the reason for the effective date;
 - b. If the effective date is later than 60 days after the date the final rule is filed with the Office, an agency shall specify the date, along with the reason for the effective date;
 4. Whether the rulemaking is a renewal of a previous emergency rulemaking and, if so, the *Register* citation to the previous notice of emergency rulemaking and the *Register* issue date;
 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking;
 6. An explanation of the rule, including the agency's reasons for initiating the rulemaking;
 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state;
 8. The economic, small business, and consumer impact summary;
 9. Any other matters prescribed by statute and applicable to the specific agency or to any specific rule or class of rules;
 10. Any material incorporated by reference and its location in the text;
 11. An explanation of the situation justifying the rule's making as an emergency rule;
 12. The date of the Attorney General's approval of the rule; and
 13. The phrase "The full text of the rules follows:". The full text shall begin on the page after the last page of the Preamble and contain the text as specified in R1-1-502(B)(13).
- B. An agency shall submit the emergency rulemaking package to the Attorney General for approval. The package shall contain an agency certificate as specified in R1-1-105(A) before filing the rules with the Office and two copies of a receipt form as specified in R1-1-106.

- C. The Attorney General shall indicate approval of the emergency rulemaking package by signing a certificate of approval, which shall be attached to the first page of the original of the notice, and shall forward the original and two copies of the rules to the Office. If the Attorney General does not approve one or more Sections in the rulemaking, the Attorney General shall prepare a certificate of disapproval and attach it to the package. If the rulemaking contains more than one Section, and the Attorney General approves at least one Section and disapproves at least one Section, the Attorney General shall attach a certificate of approval and a certificate of disapproval to the rules.
- D. Emergency rules are effective for 180 days and may be renewed for an additional 180-day period, under the provisions of A.R.S. § 41-1026.
- E. If the text of a renewed emergency rule differs from the text of the previous emergency rule, the agency shall submit to the Office, at the time of filing the renewed emergency rule, a list of every change made to the renewed emergency rule since the previous emergency rule was made.
- F. An agency shall prepare a notice of renewal of an emergency rule in the manner prescribed in this Section.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4). Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

ARTICLE 8. SUMMARY RULEMAKING**R1-1-801. Notice of Summary Rulemaking**

- A. When submitting a proposed summary rule to the Office for filing and for publication in the *Register*, an agency shall prepare a Notice of Proposed Summary Rulemaking. The Notice shall include the heading NOTICE OF PROPOSED SUMMARY RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page; followed by the Title, its number and heading centered on the line under the notice heading; followed by the Chapter, its number, and heading centered below the Title; followed by the Subchapter, its label and heading centered below the Chapter, if applicable; followed by the term PREAMBLE in all capital letters centered on a line below the Chapter or Subchapter, whichever is applicable; followed by the items listed below in the same numbered order:
1. The Sections Affected and the Rulemaking Action in two columns as specified in R1-1-502(B)(1);
 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statute (specific);
 3. The interim effective date of the summary rule;
 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking;
 5. An explanation of the rulemaking, including the agency's reasons for initiating the rulemaking;
 6. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state;
 7. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material;

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8. The preliminary summary of the economic, small business, and consumer impact if required or a statement of exemption under A.R.S. § 41-1055(D);
 9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the summary of the economic, small business, and consumer impact statement;
 10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule;
 11. An explanation of why summary proceedings are justified;
 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules;
 13. The phrase “The full text of the rules follows:”. The full text shall begin on the page after the last page of the Preamble and contain the text as specified in R1-1-502(B)(13).
- B.** Within 90 days after publication in the *Register* and after consideration of any comments, an agency shall submit to the Council its final summary rule, along with the Preamble, concise explanatory statement, and economic, small business, and consumer impact statement.
- C.** An agency shall submit a summary rulemaking package to the Council as specified in subsection (B). The Notice shall include the heading NOTICE OF FINAL SUMMARY RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page; followed by the Title, its number and heading centered under the notice heading; followed by the Chapter, its number, and heading centered below the Title; followed by the Subchapter, its label and heading, if applicable, centered on a line below the Chapter; followed by the term PREAMBLE in all capital letters, centered below the Chapter or Subchapter, whichever is applicable; followed by the items listed below in the same numbered order:
1. The Sections Affected and the Rulemaking Action in two columns as specified in R1-1-502(B)(1);
 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statute (specific);
 3. The permanent effective date of the summary rule;
 4. The *Register* citation for the Notice of Proposed Summary Rulemaking;
 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking;
 6. An explanation of the rule and the agency’s reasons for initiating the rule;
 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material;
 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state;
 9. A summary of the economic, small business, and consumer impact if required or a statement of exemption under A.R.S. § 41-1055(D);
 10. A description of the changes between the proposed summary rule and the final summary rule;
 11. A summary of the comments made regarding the rule and the agency response to them;
 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules;
 13. The phrase “The full text of the rules follows:”. The full text of the rules in the rulemaking package shall begin on the next page after the last item in the Preamble.
- D.** After the Council approves the final summary rule, the Council shall attach its certificate of approval to the original of the final summary rulemaking package and submit one original and two copies of the final summary rulemaking package to the Office.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

ARTICLE 9. EXEMPT RULEMAKING

R1-1-901. Exempt Rulemaking

- A.** An agency shall not file with the Office an exempt rule made by the agency before September 30, 1992.
- B.** The Office shall publish in the *Code* any exempt rule made after September 30, 1992 if the agency involved submits the rulemaking package to the Office. An exempt rule shall be submitted following the procedures in Article 6 of this Chapter, except that an agency shall use the notice specified in R1-1-902.
- C.** The Office shall identify in the *Code* a Chapter containing rules that are exempt from the Act and made after September 30, 1992, by a statement specifying the exemption at the beginning of the Chapter and before a Section or Article made under an exemption and by specifying the exemption in the Section’s historical note.
- D.** If a statute or session law authorizes an agency to publish in the *Register* a type of rulemaking not specified in this Chapter, the agency shall contact the Office orally or by letter, specifying the exact statutory citation.

Historical Note

Adopted effective January 1, 1995; filed in the Office of the Secretary of State December 30, 1994 (Supp. 94-4).
Amended by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

R1-1-902. Notice of Exempt Rulemaking

- A.** A Notice of Exempt Rulemaking shall contain the heading NOTICE OF EXEMPT RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page; followed by the Title, its label, and heading centered on a line below the notice heading; followed by the Chapter, its label, and heading centered on a line below the Title; followed by the Subchapter, its label, and heading centered on a line below the Chapter, if applicable; followed by the term PREAMBLE in all capital letters, centered on a line below the Chapter or Subchapter, whichever is applicable; followed by the items listed below in the same numbered order:
1. The Sections Affected and the Rulemaking Action in two columns as specified in R1-1-502(B)(1);
 2. The specific statutory authority for the rulemaking including the authorizing statute (general), the implementing statute (specific), and the statute or session law authorizing the exemption;
 3. The effective date for the rule;
 4. A list of all previous notices published in the *Register* addressing the exempt rule;
 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking;

6. An explanation of the rule, including the agency's reasons for initiating the rulemaking;
 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material;
 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state;
 9. The summary of the economic, small business, and consumer impact, if applicable;
 10. A description of the changes between the proposed rule, including supplemental notices, and final rule (if applicable);
 11. A summary of the comments made regarding the rule and the agency response to them, if applicable;
 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules;
 13. Any material incorporated by reference and its location in the text;
 14. Whether the rule was previously made as an emergency rule and, if so, whether the text was changed between making as an emergency and the making of the exempt rules;
 15. The phrase "The full text of the rules follows:". The full text of the rules in the rulemaking package shall begin on the next page after the last item in the Preamble.
- B.** An original exempt rulemaking package submitted to the Office for filing and publication shall include an agency certificate as specified in R1-1-105 and an agency receipt as specified in R1-1-106;
 - C.** An agency incorporating materials by reference shall include one copy of the material with the original final exempt rulemaking package filed with the Office.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).

ARTICLE 10. RECODIFICATION

R1-1-1001. Notice of Recodification

- A.** An agency renumbering one or more Sections from one Chapter to another Chapter, or within a Chapter under R1-1-404(B)(1), shall submit to the Office one original and two copies of a Notice of Recodification for filing and publication.
- B.** A Notice of Recodification shall contain the heading NOTICE OF RECODIFICATION in all capital letters, centered on a line approximately one inch from the top of the page; followed by the Title, its number, and heading centered under the notice heading; followed by the Chapter, its number, and heading centered below the Title; followed by the Subchapter, its label, and heading, if applicable, centered below the Chapter; followed by the items listed below in the same numbered order:
 1. A list of the Subchapters (if applicable), Articles, Parts (if applicable), and Sections being recodified along with their respective headings;
 2. A list of the Subchapters (if applicable), Articles, Parts (if applicable), and Sections as recodified along with their respective headings;
 3. A conversion table between the two numbering schemes; and
 4. The name and address of agency personnel with whom persons may communicate regarding the recodification.
- C.** If an agency renumbers or recodifies a Section, it shall make no other changes to the Section except corrections to Section references within the text of the Section or its heading.
- D.** A Notice of Recodification is effective on the date the notice is filed with the Office.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 468, effective March 23, 2004 (Supp. 04-1).